

**BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA**



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Order Instituting Investigation to Consider Policies to Achieve the Commission's Objectives for Water Conservation	Investigation 07-01-022 (Filed January 11, 2007)
In the Matter of the Application of Golden State Water Company (U133E) for Authority to Implement Changes in Ratesetting Mechanisms and Reallocation of Rates.	Application 06-09-006 (Filed September 6, 2006)
Application of California Water Service Company (U60W), a California Corporation, requesting an order from the California Public Utilities Commission Authorizing Applicant to Establish a Water Revenue Balancing Account, a Conservation Memorandum Account, and Implement Increasing Block Rates.	Application 06-10-026 (Filed October 23, 2006)
Application of Park Water Company (U314W) for Authority to Implement a Water Revenue Adjustment Mechanism, Increasing Block Rate Design and a Conservation Memorandum Account.	Application 06-11-009 (Filed November 20, 2006)
Application of Suburban Water Systems (U339W) for Authorization to Implement a Low Income Assistance Program, an Increasing Block Rate Design, and a Water Revenue Adjustment Mechanism.	Application 06-11-010 (Filed November 22, 2006)
Application of San Jose Water Company (U168W) for an Order Approving its Proposal to Implement the Objectives of the Water Action Plan.	Application 07-03-019 (Filed March 19, 2007)

**SUBURBAN WATER SYSTEMS REPLY COMMENTS ON THE PROPOSED
DECISION OF ADMINISTRATIVE LAW JUDGE GRAU**

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Dated: February 11, 2008

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OF THE STATE OF CALIFORNIA**

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I. INTRODUCTION

Pursuant to Article 14 of the Rules of Practice and Procedure of the California Public Utilities Commission ("Commission"), Suburban Water Systems ("Suburban") hereby files its comments on the *Proposed Decision of Administrative Law Judge Grau*, mailed January 15, 2008 ("Proposed Decision"). As noted in its opening comments, Suburban generally supports the Proposed Decision, in particular its adoption of the settlement agreements entered into by Suburban. Suburban urges the Commission, however, to modify the proposed decision to allow Suburban the opportunity to recover the costs its has incurred to participate in this

proceeding.¹

In these Reply Comments, Suburban will address the joint opening comments filed by The Utility Reform Network, Latino Issues Forum, the National Consumer Law Center and the Disability Rights Advocates (collectively, “Joint Intervenors”) and the comments filed by the Consumer Federation of California (“CFC”). The Joint Intervenors and CFC urge the Commission to modify the Proposed Decisions in ways that are unnecessary, unsupported by law or fact, and contrary to the Commission’s conservation goals. Suburban urges the Commission to disregard the modifications proposed by these parties.

II. JOINT INTERVENORS

The Joint Intervenors argue that the Proposed Decision errs in approving the discount method for the low-income ratepayer assistance (“LIRA”) agreed to by Suburban and the Division of Ratepayer Advocates (“DRA”). The Suburban/DRA LIRA Settlement provides for a flat discount off the fixed service charge. Joint Intervenors prefer a percentage reduction on the entire bill, claiming that the Proposed Decision “disregards the factual and policy evidence provided by TURN’s witness Robert Finkelstein.”²

As made more than clear at the evidentiary hearing, however, Mr. Finkelstein’s testimony was without merit. When asked whether he had done any analysis of the water usage patterns of low-income customers, Mr. Finkelstein admitted, “I have not done any particular study of it.”³ Mr. Finkelstein testified that he did not know what percentage of Suburban’s low-income customers live in single-family residences as opposed to multiple dwelling unit residences.⁴ Mr. Finkelstein testified that he did not know how many of Suburban’s customers would fall into the low-income high-usage category that would most benefit from a percentage discount.⁵ Finally, Mr. Finkelstein confessed that TURN did not consider the impact of its

¹ Exhibit A attached to Suburban’s Opening Comments contained an error in the suggested modification to page 29 the Proposed Decision. The correct language is attached as Exhibit A. The remaining suggested modifications were correct and are not repeated here.

² Joint Comments, p. 2.

³ Reporter’s Transcript (RT) 89:4-5 (Finkelstein/TURN).

⁴ RT 88:12-16 (Finkelstein/TURN).

⁵ RT 88:16-17 (Finkelstein/TURN).

proposal on the non-qualifying customers.⁶ The Proposed Decision properly disregarded Mr. Finkelstein's testimony.

Suburban and DRA proposed to provide qualifying low-income customers with a \$6.50 reduction on their customer bills as part of the LIRA program. Although Suburban and DRA considered a percentage discount when they developed the low-income program proposal, they rejected it due to concerns that it would interfere with the goals of the conservation rate design. A 15% reduction as recommended by the Joint Intervenors in the total customer bill could mask the conservation signals sent by the new rate design.⁷

The Joint Intervenors ignore the fact that the Commission has addressed this issue previously and has already approved flat discounts for at least five Class A Water utilities.⁸ Indeed, in a decision supporting a flat discount, the Commission explicitly rejected the arguments set forth by the Joint Intervenors in this proceeding. The Commission stated:

By lowering the readiness-to-serve charge only, there is no adverse incentive to use water unwisely. Conversely, applying a discount to the total bill and/or to the quantity rate, would not promote conservation. Hence, we find San Gabriel's proposal to discount the service charge only reasonable and consistent with § 739.8.⁹

There is no need for the Commission to modify the Proposed Decision to change the type of discount to be provided under the LIRA program.

III. CONSUMER FEDERATION OF CALIFORNIA

CFC expresses general dissatisfaction with the Proposed Decision and once again proposes measures that would delay the implementation of conservation rates for several years. This is untenable. The Commission, both in its Water Action Plan and in the Order Instituting Investigation that initiated this proceeding, recognizes the importance of encouraging water

⁶ RT 93:1-4 (Finkelstein/TURN).

⁷ Exh. 3, Kelly Further Direct Testimony, pp. 7-8.

⁸ *Application of California Water Service Company*, D.06-11-053, 2006 Cal. PUC LEXIS 477; *Application of California-American Water Company*, D.06-11-052, 2006 Cal. PUC LEXIS 491; *Application of Park Water Company*, D.06-10-036, 2006 Cal. PUC LEXIS 407; *Application of Apple Valley Ranchos Water Company*, D.05-12-020, 2005 Cal. PUC LEXIS 533; and *Application of San Gabriel Valley Water Company*, D.05-05-015, 2005 Cal. PUC LEXIS 167.

⁹ *Application of San Gabriel Valley Water Company*, D.05-05-015, 2005 Cal. PUC LEXIS 167,*6.

conservation.¹⁰ Since pricing signals are one of the most effective ways to encourage conservation, the Proposed Decision appropriately seeks to implement conservation rates in a timely manner.

CFC also criticizes the Proposed Decision's approval of the settlement between Suburban and DRA on rate design and the water revenue adjustment mechanism ("WRAM"). Suburban and DRA proposed an increasing block rate design with two blocks for Suburban's residential customers. Suburban and DRA adjusted the break points by meter size because of the concerns about the impact on low-income customers.¹¹ CFC criticizes the breakpoints between the first and second tiers proposed by Suburban and DRA, as well as the choice of a two-tier rather than a three-tier rate design.

Suburban and DRA set the upper level of the first block at the midpoint between the average monthly (annual) consumption and average summer consumption. CFC argues that the break point between the first and second tier (20 ccf) is too high.¹² Suburban and DRA used this method to set the upper level, however, because of concerns about the impact of conservation rates on low income customers, both those in single family residences (often with more than average people per household) and those in multiple dwelling unit residences.

CFC also claims that the summer usage is twice the amount of the winter usage in Suburban's San Jose Hills district, thus justifying a three-tier rate design for that service area.¹³ First, Suburban and DRA's two-block rate structure is superior because of it avoids further complicating what is already a complex rate structure. Suburban's rate design already addresses two service districts, three elevation zones and multiple meter sizes. Adding an additional tier for a single service area would significantly complicate the rate design just for the possibility of some unspecified level of increased conservation. Second, Suburban and DRA's analysis for San Jose Hills does not justify a third tier. Suburban and DRA focused on the Zone 1, which is

¹⁰ Water Action Plan, pp. 8-11; *Order Instituting Investigation to Consider Policies to Achieve the Commission's Conservation Objectives for Class A Water Utilities*, I.07-01-022, 2007 Cal. PUC LEXIS 2, *2-7.

¹¹ Exhibit 7, Joint Motion for Adoption of the Settlement Agreement, pp. 3-4.

¹² CFC Comments, p. 10.

¹³ CFC Comments, p. 11, fn. 14.

where the majority of San Jose Hills customers are located (21,500 customers out of 40,105 total San Jose Hills customers). Using this data, the summer usage average is 25.3 ccf versus 15.13 ccf in winter, which is a multiple of substantially less than two. Therefore, there is no need for a third-tier for the San Jose Hills district.

Finally, CFC's allegation of due process errors are unfounded. The schedule set forth in this proceeding included ample time for discovery and discussion. CFC chose not to take advantage of this and instead waited until the evidentiary hearings to conduct its discovery. Not only was this improper from a procedural standpoint, but it also increased the time and monetary burdens on all other participants.

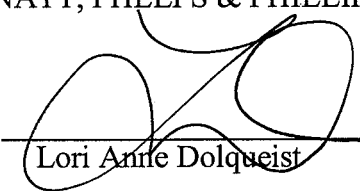
IV. CONCLUSION

For the reasons discussed above, the Commission should reject the modifications to the Proposed Decision suggested by the Joint Intervenors and CFC. Instead, the Commission should modify the Proposed Decision as set forth in Suburban's opening comments.

Dated: February 11, 2008

MANATT, PHELPS & PHILLIPS, LLP

By: _____


Lori Anne Dolqueist

Attorneys for Applicant
Suburban Water Systems

Exhibit A

Proposed Modification to Page 29 (corrected)

~~deletions~~
insertions

Page 29

Suburban and DRA's WRAM proposal is consistent with the CalAm WRAM that has been in effect since 1996 and will ~~make Suburban whole for~~ address any changes in revenue resulting from the adoption of conservation rates, assuming the same level of sales.

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PROOF OF SERVICE

I, Cinthia A. Velez, declare as follows:

I am employed in the City and County of San Francisco, California. I am over the age of eighteen years and not a party to this action. My business address is STEEFEL, LEVITT & WEISS, One Embarcadero Center, 30th Floor, San Francisco, California 94111-3719. On February 11, 2008, I served the within:

***Suburban Water Systems Reply Comments on the
Proposed Decision of Administrative Law Judge Grau***

on the interested parties in this action addressed as follows:

See attached service list



(BY PUC E-MAIL SERVICE) By transmitting such document(s) electronically from Steefel, Levitt & Weiss, San Francisco, California, to the electronic mail addresses listed above. I am readily familiar with the practices of Steefel, Levitt & Weiss for transmitting documents by electronic mail, said practice being that in the ordinary course of business, such electronic mail is transmitted immediately after such document has been tendered for filing. Said practice also complies with Rule 1.1 of the Public Utilities Commission of the State of California and all protocols described therein.



(BY MAIL) By placing such document(s) in a sealed envelope, with postage thereon fully prepaid for first class mail, for collection and mailing at Steefel, Levitt & Weiss, San Francisco, California following ordinary business practice. I am readily familiar with the practice at Steefel, Levitt & Weiss for collection and processing of correspondence for mailing with the United States Postal Service, said practice being that in the ordinary course of business, correspondence is deposited in the United States Postal Service the same day as it is placed for collection.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that this declaration was executed on February 11, 2008, at San Francisco, California.


Cinthia A. Velez

SERVICE LIST

I.07-01-022; A.06-09-006; A.06-10-026; A.06-11-009; A.06-11-010; A.07-03-019
(Last changed: January 25, 2008)

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